

REMARKS

Claims 1-9, 19 and 20 are pending in this application.

Claims 1-2, 4-9 and 19-20 were rejected under 35 USC 102(b) as being anticipated by Remedy (as evidenced by **Newswire**, “Remedy Introduces New Applications to the Customer Relationship Management (CRM) Market” and **Strauss** (“My Remedy what!? Has Been Resolved???”)). Claim 3 was rejected under 35 USC 103(a) as being unpatentable over Remedy. Claim 21 was rejected under 35 USC 103(a) as being unpatentable over Remedy in vie of official notice. Applicants respectfully disagree.

1) The Examiner improperly uses two references (Newswire and Strauss) in making a rejection under 35 USC 102. MPEP 2131.01. Newswire and Strauss were published on different dates.

Although the Examiner defines a single reference, which he calls “Remedy”, it in fact contains two separate references: Newswire and Strauss. Newswire is dated February 17, 1999 and Strauss appears to be dated September, 1998. Indeed, in the Examiner’s rejection of 1, he uses refers to Strauss and Newswire individually to identify the various elements of Applicants’ claim 1. Neither Strauss nor Newswire is used alone to show all of the elements of Applicants’ independent claim 1. For example, the Examiner cites Strauss for teaching a query module with a user interface. The Examiner cites Newswire for teaching email as a means for submitting service tickets and for teaching a problem solver. The Examiner cites Strauss for teaching tracking of the status of an identified customer problem via the web.

The reference must show every claimed element in order to anticipate claimed subject matter. Verdegaal Bros v. Union Oil of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). MPEP 2131. The elements of the claim must be shown in the art in the same level of detail. Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ 2d 1913, 1920 (Fed.Cir. 1989). MPEP 2131.02

According to MPEP 2131.01 a 35 USC 102 rejection over multiple references has been held to be proper when the extra references are cited to:

(A) Prove the primary reference contains an “enabled disclosure”;

- (B) Explain the meaning of a term used in the primary reference; or
- (C) Show that a characteristic not disclosed in the reference is inherent.

The Examiner has made no showing that either Newswire or Strauss is used in any of (A), (B) or (C) above. Rather, the Examiner has used Newswire and Strauss to show individual elements of the claim, in the manner of an obviousness rejection, not an anticipation rejection.

2) Parts of Applicants' system recited in the claims are not defined by functional language.

The Examiner cited *In Re Schreiber*, 128 F.3d 1473 (Fed.Cir. 1997) for the proposition that Applicants' "query module", "reporting module" and "analysis module" constitute functional language and should be given weight to the extent the prior art is or is not capable of meeting the functional limitations. Applicants' claims do not use means plus function language. The claims in *Schreiber* use means plus function language:

A dispensing top for passing only several kernels of a popped popcorn at a time from an open-ended container filled with popped popcorn, having a generally conical shape and an opening at each end, the opening at the reduced end allows several kernels of popped popcorn to pass through at the same time, and means at the enlarged end of the top to embrace the open end of the container, the taper of the top being uniform and such as to by itself jam up the popped popcorn before the end of the cone and permit the dispensing of only a few kernels at a shake of a package when the top is mounted on the container.

3) Bressler is not available as a reference under 35 USC 102(b) against the Application.

On page 3 of the Office Action, the Examiner states, "Even if the order was required, Bressler ("Internet CRM must have human touch") teaches contacting the customers to verify [sic] that everything is to their satisfaction prior to knowledge of a customer problem (see "Follow Up")". Bressler is dated October 22, 2001, which is less than one year before Applicants' filing date of February 25, 2002.

4) Both Bressler and Oatman are improperly cited in the Examiner's rejection under

35 USC 102(b).

The Examiner cites the additional references (in addition to both Newswire and Strauss) in his rejection under 35 USC 102(b) with no showing that such additional references are proper in accordance with any of (A), (B) or (C) of MPEP 2131.01.

5) Claims 1-9 and 19-20 are not obvious under 35 USC 103(a) over Newswire, “Remedy Introduces New Applications to the Customer Relationship Management (CRM) Market” or Strauss (“My Remedy what!? Has Been Resolved???”), whether taken alone or in combination.

6) Neither Strauss nor Newswire sends open ended queries to users. Neither Strauss nor Newswire sends “a query to a customer as to whether the customer has any problems with goods or services provided by a provider that have not been resolved to the customer’s satisfaction.”

Applicants’ system includes a query module for automatically sending a query to a customer as to whether the customer has any problems with goods or services provided by a provider that have not been resolved to the customer’s satisfaction. A “query as to whether the customer has any problems” is an open-ended query. The customer is not limited by his response to a particular device or service call. Nor must a customer have already opened a ticket for service. Open-ended queries result in more responses from recipients of the open-ended query.

The Examiner notes that “Remedy” (Strauss, but it does not appear that Newswire so indicates) sends a query to the customer after the customer has already opened a ticket rather than sending the query to a customer before the opening of a ticket. The Examiner further states that the references meet the limitation of the claim since the claim does not recite any required order. Applicants respectfully disagree. Strauss sends queries in response to known problems, as indicated by the customer submitted job ticket. Applicants’ claim 1 includes a query module for “sending a query to a customer as to whether the customer has any problems with goods or services provided by a provider that have not been resolved to the customer’s satisfaction”. Strauss’ query sent in response to a customer opening a ticket is clearly not “a query to a

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customer as to whether the customer has any problems with goods or services provided by a provider that have not been resolved to the customer's satisfaction".

7) Neither Newswire nor Strauss discloses an email query including a yes link and a no link.

Claim 21 claims a system wherein an email query includes a yes link for enabling a customer to respond in the affirmative to the query as to whether the customer has any problems with goods or services provided by a provider that have not been resolved to the customer's satisfaction and a no link for enabling a customer to respond in the negative, wherein responsive to selection of the yes link, the system displays an interface for receiving input from the customer describing the problem that has not been resolved to the customer's satisfaction. Nothing in Newswire or Strauss describes an email query which includes a yes link and a no link in response to the query as to whether the customer has any problems with goods or services provided by a provider that have not been resolved to the customer's satisfaction.

The fact that hyperlinks are old does not teach or suggest Applicants' claim 21.

Accordingly, Claims 1-9, 19-21 are believed to be patentable over Newswire and Strauss, whether taken alone or in combination.

Consideration of this application and allowance thereof are earnestly solicited. In the event the Examiner considers a personal contact advantageous to the disposition of this case, the Examiner is requested to call the undersigned Attorney for Applicants, Jeannette Walder.

Respectfully submitted,

/Jeannette M. Walder, Reg. #30,698/

Jeannette M. Walder
Attorney for Applicants
Registration No.: 30,698
Telephone: 714-565-1700

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Santa Ana, California
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